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~~TOP SECRET//COMINT//NOFORN~~
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE MARYLAND 20755-6000

4 February 2010

MEMORANDUM FOR THE ASSISTANT TO THE SECRETARY OF DEFENSE (INTELLIGENCE OVERSIGHT)

SUBJECT: (U//~~FOUO~~) Required Actions for the CY 2010 Intelligence Oversight Report to Congress - INFORMATION MEMORANDUM

(U//~~FOUO~~) In accordance with your memorandum of 17 November 2010, the enclosed consolidation of the National Security Agency's Quarterly Reports to the President's Intelligence Oversight Board for calendar year 2010 is provided to assist the Secretary of Defense in preparation of his Annual Report to Congress.

George Ellard

GEORGE ELLARD
Inspector General

Encl:
Annual Report

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Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

(U) National Security Agency/Central Security Service Annual Intelligence Oversight Report

I. (U) Intelligence, Counterintelligence, and Intelligence-Related Activities that Violated Law, Regulation, or Policy and Were Substantiated during the Year, as Well as Actions Taken as a Result of the Violations

A. (U) Intelligence Activities under Executive Order (E.O.) 12333 Authority

(U) Unintentional Collection against U.S. Persons (USPs) or Foreign Persons in the United States

(U//~~FOUO~~) During calendar year 2010 (CY2010), National Security Agency/Central Security Service (NSA/CSS) analysts on [redacted] occasions inadvertently targeted or collected communications to, from, or about USPs while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States Signals Intelligence (SIGINT) Directive (USSID) SP0018.

(b)(1)
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(b)(3)-P.L. 86-36

1. (U) Targeting

(U//~~FOUO~~) During CY2010, procedural and human errors contributed to [redacted] violations wherein NSA/CSS analysts targeted communications to, from, or about USPs or foreign persons in the United States.

(b)(3)-P.L. 86-36

a. (U//~~FOUO~~) On [redacted] of [redacted] occasions during CY2010, NSA/CSS analysts tasked selectors associated with USPs.

b. (U//~~FOUO~~) On [redacted] of [redacted] occasions during CY2010, selectors for valid foreign intelligence targets were not detasked while the targets were in the United States.

(U//~~FOUO~~) Table 1: E.O. 12333 – Targeting Violations, CY2010

	No. of Occasions	No. of Selectors Affected
Failure to review content of traffic [redacted] the United States		
Failure to verify foreignness* of the selector		
Human error – Analyst neglected to detask selectors		
Failure by analyst(s) to share [redacted] the United States		
Customer failed to notify NSA/CSS [redacted] the United States		
Selector was overlooked		
Failure to understand procedures		

(U//~~FOUO~~)

(U//~~FOUO~~) * For purposes of this report, "foreignness" refers to a target's status with respect to being located outside the United States.

Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20321123

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2. (U) Database Queries

a. ~~(S//REL TO USA, FVEY)~~ During CY2010, NSA/CSS analysts on [ ] occasions performed overly broad or poorly constructed database queries that potentially targeted USPs. For example, queries used [ ] which produced imprecise results.

(b)(3)-P.L. 86-36

b. (U//~~FOUO~~) On [ ] of [ ] occasions, other errors contributed to violations. On [ ] of these [ ] occasions, NSA/CSS analysts used selectors associated with USPs. On [ ] of [ ] occasions, NSA/CSS analysts used selectors associated with valid foreign targets located in the United States.

(U//~~FOUO~~) Table 2: E.O. 12333 – Database Query Violations, CY2010

	No. of Occasions	No. of Selectors Affected
Failure to verify foreignness of the selector		
Failure to understand proper procedures		
Failure by analyst to suspend the query [ ] the United States		
Analyst included in query dates during which target was known to be in the United States		
Analyst operating under erroneous guidance or information		
Failure by analyst(s) to share [ ] the United States		
Human error (analyst cut and pasted [ ] into query, or included known USP selector)		

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(U//~~FOUO~~)

c. (U//~~FOUO~~) Note: Although the number of times an error occurred is noted, the number of times an analyst submitted a specific query to a raw database is not consistently known.

3. (U) Detasking Delays

(U//~~FOUO~~) On [ ] occasions during CY2010, USP selectors or selector s associated with valid foreign targets in the United States were not detasked as required.

(b)(3)-P.L. 86-36

(U//~~FOUO~~) Table 3: E.O. 12333 – Detasking Delays, CY2010

	No. of Occasions	No. of Selectors
Failure to implement detask order		
Selector overlooked on a list of selectors to be detasked		

U//~~FOUO~~)

4. (U) Retention

(U//~~FOUO~~) During CY2010, there was one instance of improper retention. Intercept of a valid foreign intelligence target in the United States was retained [redacted]. The improper retention occurred because an NSA/CSS analyst failed to mark the collection properly for deletion. (b)(3)-P.L. 86-36

B. (U) Dissemination of U.S. Identities

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(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ NSA/CSS issued [redacted] SIGINT product reports during CY2010. In those reports, SIGINT analysts disseminated communications to, from, or about USPs or entities on [redacted] occasions while pursuing foreign intelligence tasking. A total of [redacted] SIGINT products were found to be improper, and the reports were canceled as NSA/CSS [redacted] analysts learned of the USPs, U.S. organizations, or U.S. entities named in products without authorization. All data in the canceled reports was deleted as required, and the reports were not reissued or were reissued with proper minimization.

C. (U) The Foreign Intelligence Surveillance Act (FISA)

1. (U) NSA/CSS Title I FISA

(U//~~FOUO~~) During CY2010, NSA/CSS incurred [redacted] violations related to Foreign Intelligence Surveillance Court (FISC)-authorized targets.

(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ **Table 4: NSA/CSS Title I FISA Violations, CY2010**

	No. of Occasions	No. of Selectors Affected
Selector in use by an unauthorized target [redacted]	[redacted]	[redacted]
Selector was misused [redacted] raw traffic database, or other restricted data sources)		
USP selector included in NSA/CSS's FISA application in error		
Human error – Selector contained a typographical error		
Target erroneously believed to belong to an entity authorized under a valid FISC Order		
FISC Order was misunderstood		

~~(TS//SI//NF)~~

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(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ * The error occurred because an NSA FISC Order, which was renewed [redacted] specified that only [redacted] about which members were associated with [redacted] authorized under the order could be tasked. The previous order allowed [redacted] could be proved to be associated with [redacted] authorized in the order. [redacted] were tasked and detasked [redacted]

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(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U) Detasking Delays

(U//~~FOUO~~) During CY2010, [redacted] violations wherein the FISC-authorized target selectors were not detasked as required were discovered.

(U//~~FOUO~~) **Table 5: NSA/CSS Title I FISA Violations – Detasking Delays, CY2010**

(b)(3)-P.L. 86-36

	No. of Occasions	No. of Selectors Affected
Miscommunication resulting in a failure to detask selector		
Analysts discovered targeted individuals [redacted]		
Selectors were not fully detasked		
Human error – Analyst neglected to detask selector		
Additional selector was overlooked		
Analyst misunderstood detask requirements/procedures		
Selectors previously authorized had not been detasked prior to start of new FISC Order		

(U//~~FOUO~~)

(U//~~FOUO~~) * The FISC directed that selectors for this target be verified every six months.

(U//~~FOUO~~) **Applies to all [redacted] selectors. (b)(3)-P.L. 86-36

2. (~~TS//SI//NF~~) Business Records (BR) Order

(~~TS//SI//NF~~) During CY2010, there was one violation of the BR FISC Order. NSA/CSS discovered that BR metadata for a U.S. telephone identifier was queried on 9 March 2010 after authorization to target had expired on 7 March 2010. The incident occurred because the identifier was mislabeled authorized until 23 March 2010. In June 2010, NSA/CSS implemented a new program to revalidate automatically an identifier's authorization status.

3. (U) FISA Amendments Act (FAA)

(U) Section 702

(U//~~FOUO~~) During CY2010, NSA/CSS analysts on [redacted] occasions incurred violations of FAA §702 authority: [redacted] targeting incidents, [redacted] non-compliant database queries, [redacted] detasking delays, and [redacted] tasking errors. (b)(3)-P.L. 86-36

(b)(3)-P.L. 86-36

a. (U) Targeting

(b)(3)-P.L. 86-36

(U//~~FOUO~~) Procedural or human error contributed to [ ] targeting violations.

(U//~~FOUO~~) **Table 6: NSA/CSS FAA §702 – Targeting Violations, CY2010**

	No. of Occasions	No. of Selectors Affected
[ ] the United States was not reviewed, or information [ ] was overlooked		
Analyst misunderstood detask requirements/procedures		
Selector was tasked using outdated foreignness		
Selector was not detasked because of a software problem		
Selector was detasked late because [ ] the United States		
Citizenship was not reviewed (target was a U.S. citizen)		
Failure by analyst to detask selector [ ] the United States by the target		
Selector was tasked before approval		
[ ]		
Incorrect selector was tasked – Insufficient research was conducted on selector		
Failure to verify foreignness of the selector		
Customer failed to notify NSA/CSS [ ] the United States		

(U//~~FOUO~~)

(b)(3)-P.L. 86-36

b. (U) Database Queries

(U//~~FOUO~~) On [ ] of [ ] occasions, NSA/CSS analysts used selectors associated with USPs or a selector [ ] the United States in FAA §702 [ ] raw traffic database. On [ ] of [ ] occasions, NSA/CSS analysts used selectors associated with FAA §702-authorized target(s) located in the United States.

(U//~~FOUO~~) **Table 7: NSA/CSS FAA §702 – Database Query Violations, CY2010**

	No. of Occasions	No. of Selectors Affected
USP selector used in query against FAA §702-authorized collection – Analyst was unaware of the prohibition to exclude §702 data, or selector entered in error		(b)(3)-P.L. 86-36
Analyst included in query dates during which target was known to be in the United States		
Unauthorized selector used to query in FAA §702 [redacted] raw database – Analyst failed to verify foreignness		
Analyst failed [redacted] the United States by the target		
[redacted]		
Failure to understand proper procedures – Analyst queried on U.S.-based selector because it was [redacted] an FAA §702-approved target		
Failure to understand proper procedures – Analyst did not understand that the presence in the U.S. afforded the valid foreign intelligence target protected status		
Analyst failed to note that selector had been detasked due to the target's presence in the U.S.		

(U//~~FOUO~~)

(b)(3)-P.L. 86-36

c. (U) Detasking Delays

(U//~~FOUO~~) During CY2010, there were [redacted] detasking delays wherein FAA §702-approved selectors were not detasked as required.

(U//~~FOUO~~) **Table 8: NSA/CSS FAA §702 – Detasking Delays, CY2010**

	No. of Occasions	No. of Selectors Affected	No. of Days Selector Tasked Past Required Detask Date
Selector was overlooked			(b)(3)-P.L. 86-36
System problem			
Selector was dual-routed in error – Selector remained on tasking			
[redacted] detask procedure was unsuccessful			
Analyst overlooked a detask notification (b)(3)-P.L. 86-36			
Failure to review [redacted] the U.S.			
Selector discovered to be a USP – Analyst failed to immediately detask			

(U//~~FOUO~~)

d. (U) Tasking Errors

(U//~~FOUO~~) There were [redacted] FAA §702-related tasking errors in CY2010. In one instance, an NSA/CSS analyst inadvertently re-tasked [redacted] selectors that had been detasked. Selectors were again detasked, and data collected from only [redacted] of the selectors was purged. In the other instances, NSA/CSS analysts discovered that selectors for valid foreign intelligence targets had been tasked under the incorrect FAA §702 certification. The selectors were detasked.

(U//~~FOUO~~) **Table 9: NSA/CSS FAA §702 – Tasking Errors, CY2010**

	No. of Occasions	No. of Selectors Affected
Selectors were inadvertently re-tasked	[redacted]	(b)(3)-P.L. 86-36
Incorrect §702 certification applied		

(U//~~FOUO~~)

(b)(3)-P.L. 86-36

e. (U) Retention

(U//~~FOUO~~) During the second quarter of CY2010, NSA/CSS implemented a new process to ensure that FAA collection that is required to be purged is purged from NSA/CSS databases. A [redacted] to identify data that should be purged or aged off.

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f. (U) Other

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(b)(3)-50 USC 3024(i)

~~(S//SI//REL TO USA, FVEY)~~ [redacted] NSA/CSS reported to the Department of Justice (DoJ) and the Office of the Director of National Intelligence an instance in which

[redacted]

~~(S//SI//REL TO USA, FVEY)~~ DoJ reported this [redacted] to the FISC in accordance with the FISC Rules of Procedure. [redacted]

[redacted]

(U) Section 704

(U//~~FOUO~~) There were [redacted] violations of FAA §704 authority during CY2010. In [redacted] instances, approved FAA §704 selectors were submitted to sites that were not approved for FAA §704 collection. The selectors were detasked, and there was no collection. The [redacted] instance involved a non-compliant database query. The query was deleted, and there were no results. The final violation involved a 2-day detasking delay.

(U//~~FOUO~~) **Table 10: NSA/CSS FAA §704 Violations, CY2010**

	No. of Occasions	No. of Selectors Affected
§704 selectors submitted to sites that were not approved for FAA §704 collection	[redacted]	
Non-compliant database query		
Detasking delay - Overlooked selector		

(U//~~FOUO~~)

(b)(3)-P.L. 86-36

(U) Section 705b

(S//~~REL TO USA, FVEY~~) During CY2010, [redacted] violations of FAA §705b authority were the result of [redacted] non-compliant database queries, [redacted] detasking delays, and one tasking error.

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(b)(3)-P.L. 86-36

a. (U) Database Queries

(S//~~REL TO USA, FVEY~~) NSA/CSS is pursuing an initiative with DoJ to modify NSA/CSS's §702 minimization procedures [redacted] collected FAA §702 data [redacted] If approved, this change would align NSA/CSS's procedures with the Federal Bureau of Investigation's (FBI) procedures, which permit such searches.

(S//~~REL TO USA, FVEY~~) **Table 11: NSA/CSS FAA §705b – Database Query Violations, CY2010**

	No. of Occasions	No. of Selectors Affected
FAA §705b selectors used in query against FAA §702-authorized collection – Analyst was unaware target was under §705b authority	[redacted]	
FAA §705b selectors used in query against FAA §702-authorized collection – [redacted]		
FAA §705b selectors used in query against FAA §702-authorized collection [redacted]		
FAA §705b selectors used in query against FAA §702-authorized collection – System problem		
FAA §705b selectors used in query against FAA §702-authorized collection – Analyst was unaware list included §705b selectors		

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Analyst failed to suspend queries before target's return to the United States	
FAA §705b selectors used in query against FAA §702-authorized collection –	
Analyst queried unauthorized target authorized §705b target – Analyst failed to verify authorization	

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~~(S//REL TO USA, FVEY)~~

b. (U) Detasking Delays

~~(S//REL TO USA, FVEY)~~ During CY2010, there were instances of detasking delays in which FAA §705b-authorized targets remained tasked after the authorization had expired.

~~(S//REL TO USA, FVEY)~~ **Table 12: NSA/CSS FAA §705b – Detasking Delays, CY2010**

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(b)(3)-P.L. 86-36

	No. of Occasions	No. of Selectors	No. of Days Selector Tasked Past Required Detask Date	No. of Days Selector Tasked Past Required Detask Date
Selector overlooked on a list of selectors to be detasked				
was not instructed to detask selector				

~~(S//REL TO USA, FVEY)~~

c. (U) Tasking Errors

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(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ NSA/CSS analysts discovered that selectors associated with an FAA §705b-authorized target were erroneously tasked The selectors, remained on task before the selectors were detasked. There was no collection.

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4. (U) Data Handling Errors

(U//~~FOUO~~) On occasions during CY2010, FISA- or FAA-derived information was available to NSA/CSS analysts not cleared for access. On of these occasions, NSA/CSS analysts inadvertently forwarded FISA- or FAA-derived information via e-mail to unauthorized recipients. On of these occasions, e-mail was sent to an alias that included NSA/CSS analysts not cleared for FISA- or FAA-derived information.

(b)(3)-P.L. 86-36

5. (U) Unauthorized Access

(U//~~FOUO~~) NSA/CSS reported during CY2010 seven instances in which database access to FISA- and FAA-derived information was not terminated when access was no longer required Once identified, the accesses were terminated

D. (U) Other

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(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

1. (U) Computer Network Exploitation (CNE)

~~(TS//SI//NF)~~

~~(TS//SI//NF)~~

2. (U) Consensual and Other Collection

(U//~~FOUO~~) In CY2010, there were [ ] instances in which consensual collection agreements expired and the selectors remained tasked In [ ] instances, because of human error, tasking continued for one additional day. There was no collection. In the last instance, tasking continued for six days because the IC customer provided an incorrect date for the target's return to the United States All collection was deleted, and no reports were issued. (b)(3)-P.L. 86-36

(U//~~FOUO~~) Also during CY2010, NSA/CSS analysts discovered that an incorrect selector was tasked in support of two IC agency-sponsored consensual orders. There was no collection, and no reports were issued.

~~(TS//SI//REL TO USA, FVEY)~~ [ ] an NSA/CSS analyst queried a raw traffic database using a USP's telephone selector outside the Director, NSA/CSS (DIRNSA)-authorized period to query and task the selector DIRNSA had authorized collection on telephone selectors associated with two U S. hostages. The authorization allowed tasking and querying on the

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selectors [redacted] an NSA/CSS analyst queried one of the telephone selectors using a date range [redacted] The analyst deleted the query and the results [redacted] No reports based on the query results were issued.

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(b)(3)-50 USC 3024(i)

E. (U) Intelligence-Related Activities

~~(S//SI//NF)~~ To reduce the risk of unauthorized telephony collection and prevent violations, NSA/CSS instituted a process that gives analysts greater and faster insight into a target's location. [redacted] When collection did occur, data was purged from NSA's principal raw traffic repositories, when required.

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(b)(3)-50 USC 3024(i)

~~(S//SI//NF)~~ [redacted] NSA/CSS analysts found [redacted] When collection occurred, it was purged from NSA/CSS's principal raw traffic repositories, when required.

(U//~~FOUO~~) Although not violations of E.O. 12333 and related directives, NSA/CSS reported during CY2010 [redacted] instances in which database access was not terminated when access was no longer required. Once identified, the accesses were terminated. NSA/CSS also reported [redacted] instances of unauthorized access to raw SIGINT.

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~~(TS//SI//REL TO USA, FVEY)~~ [redacted]

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

II. (U) NSA Office of the Inspector General (OIG) Intelligence Oversight (IO) Inspections, Investigations, and Special Studies

A. (U) Intelligence Oversight Inspections

(U//~~FOUO~~) During CY2010, the OIG reviewed various intelligence activities of the NSA/CSS to determine whether they had been conducted in accordance with statutes, executive orders, Attorney General procedures, and Department of Defense (DoD) and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.

1. **(U) NSA/CSS Georgia**

(U//~~FOUO~~) The NSA/CSS Georgia IO program, although not fully mature, has significantly improved since the last inspection. The program lacks a review element to assess the adequacy of oversight controls within NSA/CSS Georgia and tenant organizations. Processes put in place are not evaluated for efficiency, effectiveness, or compliance. Mission elements do not receive risk management reviews through the IO program to evaluate oversight controls commensurate with high-risk mission areas. Reviews to assess effectiveness of processes used to add and remove employees from IO training tracking systems, assess training compliance, and conduct analysis of incorrectly answered IO test questions are not conducted. The NSA/CSS OIG will update actions taken by NSA/CSS Georgia to address the inspection findings in a future report.

2. **(U//~~FOUO~~)** [redacted] (b)(3)-P.L. 86-36

(U//~~FOUO~~) The [redacted] IO program has undergone several leadership changes in the past few years and, as a result, is still maturing. The site's program would benefit from continued attention to documentation of processes and procedures. The site does not have standard operating procedures (SOP) for IO. Records documenting compliance with IO training requirements for [redacted] personnel are incomplete; however, [redacted] compliance with the required IO annual refresher training is good.

3. **(U)** [redacted] (b)(3)-P.L. 86-36

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(b)(3)-50 USC 3024(i)

(S//~~REL TO USA, FVEY~~) During an OIG review, NSA/CSS discovered that the [redacted] had no formal process to verify whether [redacted] individuals with access to [redacted] had been appropriately trained. [redacted] had deleted [redacted] accounts because the individuals no longer required access to the data. [redacted] account holders obtained required USSID SP0018 training, and [redacted] account holders obtained required clearances. To prevent future unauthorized access, the [redacted] established a formal account request process by which clearances are verified before accounts are created.

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4. **(U) Cryptologic Services Group (CSG)** [redacted] (b)(3)-P.L. 86-36

(U//~~FOUO~~) CSG [redacted] had no documented procedures for accomplishing IO training of [redacted] SIGINT personnel and for completing IO quarterly reporting. Although the CSG Chief was designated as the IO Officer (IOO), no alternate IOO was designated. During the CSG Chief's extended absence, the site had no official IO point of contact. An alternate IOO, who was designated before the inspection began, is drafting SOP for IO training and for incident and quarterly reporting.

5. (U) [redacted] (b)(3)-P.L. 86-36

(U//~~FOUO~~) The [redacted] IO program has improved significantly since the 2007 inspection. The IO Program Manager (IO PM), now a full-time employee, has been in the position for four years, providing continuity for the site's IO program. The site's IO processes and procedures have been shared as a best practice with IO PMs throughout the NSA/CSS extended enterprise. To assist in handling increased oversight responsibilities, the IO PM delegated certain IO functions to experienced personnel in key mission areas where there is risk for exposure to USP information. Despite the delegation of functions, the IO PM does not have an officially designated alternate, creating a single point of failure. This was noted as a program weakness in inspections in 2004 and 2007. The OIG will track corrective actions.

5. (U) [redacted]

(U//~~FOUO~~) [redacted] with NSA Analysis and Production Managers, oversees the SIGINT mission performed a [redacted] under the DIRNSA SIGINT authority. The IO Coordinator has established a viable IO Program that enables management of the [redacted] extensive IO responsibilities. Forward-deployed personnel in AORs that are in constant flux follow documented procedures to manage data. Branch procedures are easily accessible to personnel with implementation responsibilities.

B. (U) IO Training

(U//~~FOUO~~) As a part of NSA/CSS's Comprehensive Mission Compliance Program, NSA/CSS is working to modernize existing compliance and IO training programs. IO training consists of a review of laws, regulations, and policies pertaining to NSA/CSS. Effective 1 July 2010, review of DoD's Directive Type Memorandum 08-052 became part of the NSA/CSS core IO training.

(U) ACRONYMS AND ORGANIZATIONS

(U) [redacted] [redacted]

(U) BR Business Records

(U) CNE Computer Network Exploitation

(U) CSG Cryptologic Services Group

(U) CY Calendar Year

(U) DIRNSA Director, National Security Agency

(U) DoD Department of Defense

(U) DoJ Department of Justice

(U) E.O. Executive Order

(U) FAA Foreign Intelligence Surveillance Act Amendments Act

(U) FBI Federal Bureau of Investigation

(U) FISA Foreign Intelligence Surveillance Act

(U) FISC Foreign Intelligence Surveillance Court

(U) IC Intelligence Community

(U) IO Intelligence Oversight

(U) IOO Intelligence Oversight Officer

(U) IO PM Intelligence Oversight Program Manager

(U) [redacted] [redacted]

(U) [redacted] [redacted]

(U) NSA/CSS National Security Agency/Central Security Service

(U) [redacted] [redacted]

(U) OIG Office of the Inspector General

(U) SIGINT Signals Intelligence

(U) SOP Standard Operating Procedures

(U) USP U.S. person

(U) USSID United States Signals Intelligence Directive

(b)(3)-P.L. 86-36